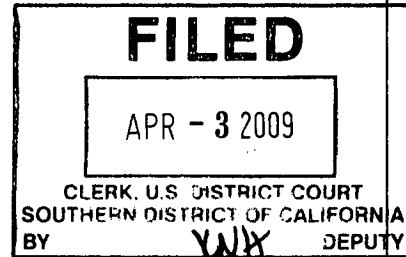


1 Michael S. Agruss (SBN: 259567)
2 Ryan Lee (SBN: 235879)
3 Nick Bontrager (SBN: 252114)
4 G. Thomas Martin, III (SBN 218456)
5 Krohn & Moss, Ltd.
6 10635 Santa Monica Blvd., Suite 170
7 Los Angeles, CA 90025
8 Tel: 323-988-2400 x235
9 Fax: 866-583-3695
10 magruss@consumerlawcenter.com

11 Attorneys for Plaintiff, KARI RENGO



12
13 UNITED STATES DISTRICT COURT
14
15 SOUTHERN DISTRICT OF CALIFORNIA

16 KARI RENGO,

17 Plaintiff,

18 v.

19 PATENAUE & FELIX, A
20 PROFESSIONAL CORPORATION,

21 Defendant.

Case No.: '09 CV 0683 LAB WMC
COMPLAINT AND DEMAND FOR
JURY TRIAL
(Unlawful Debt Collection Practices)

22 PLAINTIFF'S COMPLAINT

23 KARI RENGO (Plaintiff), through her attorneys, KROHN & MOSS, LTD., alleges the
24 following against PATENAUE & FELIX, A PROFESSIONAL CORPORATION
25 (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15
U.S.C. 1692 et seq. (FDCPA).

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JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
3. Defendant conducts business in the State of California, and therefore, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.
5. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

PARTIES

6. Plaintiff is a natural person residing in Duluth, St. Louis County, Minnesota.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is debt collection law firm with a business office San Diego, California.
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.
12. Defendant calls Plaintiff from the following telephone number: 800-832-7675.
13. Defendant called Plaintiff at 10:00 p.m. in January 2009.
14. Defendant called Plaintiff and did not disclose that the communication was from a debt collector (see transcribed voicemail message attached as Exhibit A).

1 15. Defendant did not send Plaintiff a debt validation letter.

2 **COUNT I**
3 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

4 16. Defendant violated the FDCPA based on the following:

- 5 a. Defendant violated §1692c(a)(1) of the FDCPA by calling Plaintiff at 10:00 p.m.
- 6 b. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's
7 telephone to ring repeatedly and continuously with the intent to annoy, abuse,
8 and harass Plaintiff.
- 9 c. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an
10 attempt to collect a debt by calling Plaintiff and failing to disclose that the
11 communication was from a debt collector.
- 12 d. Defendant violated §1692e(11) of the FDCPA by failing to disclose in
13 subsequent communications that the communication was from a debt collector.
- 14 e. Defendant violated §1692g(a)(1-5) of the FDCPA by failing to provide
15 appropriate notice of the debt within 5 days after the initial communication
16 including: (1) the amount of the debt; (2) the name of the creditor to whom the
17 debt is owed; (3) a statement that unless the consumer, within 30 days after
18 receipt of the notice, disputes the validity of the debt, or any portion thereof, the
19 debt will be assumed to be valid by the debt collector; (4) a statement that if the
20 consumer notifies the debt collector in writing within the 30-day period that the
21 debt, or any portion thereof, is disputed, the debt collector will obtain verification
22 of the debt or a copy of a judgment against the consumer and a copy of such
23 verification or judgment will be mailed to the consumer by the debt collector; and
24 (5) a statement that, upon the consumer's written request within the 30-day
25

1 period, the debt collector will provide the consumer with the name and address of
2 the original creditor, if different from the current creditor.

3 17. As a direct and proximate result of one or more or all of the statutory violations above
4 Plaintiff has suffered emotional distress (see Exhibit B).

5 WHEREFORE, Plaintiff, KARI RENGO, respectfully requests judgment be entered against
6 Defendant, PATENAUE & FELIX, A PROFESSIONAL CORPORATION for the following:

7 18. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection
8 Practices Act,

9 19. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,

10 20. Actual damages,

11 21. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
12 *15 U.S.C. 1692k*

13 22. Any other relief that this Honorable Court deems appropriate.

14 **DEMAND FOR JURY TRIAL**

15 PLEASE TAKE NOTICE that Plaintiff, KARI RENGO, demands a jury trial in this
16 cause of action.

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19 RESPECTFULLY SUBMITTED,

20 DATED: March 27, 2009

KROHN & MOSS, LTD

21
22 By: 

23 Michael S. Agruss
24 Attorney for Plaintiff
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EXHIBIT A

KARI RENG V. PATENAUE & FELIX

This message is for Kerry Rengo. My name is _____. I am calling from the Law Office of Patenaude & Felix. I need for you to call me back in regards to an important matter at toll free number 1-800-832-7675, extension 7754. Thank you.

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EXHIBIT B

I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- | | | |
|---|--------------------------------------|--------------------------|
| 1. Sleeplessness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 2. Fear of answering the telephone | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 3. Nervousness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 4. Fear of answering the door | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 5. Embarrassment when speaking with family or friends | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 6. Depressions (sad, anxious, or "empty" moods) | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 7. Chest pains | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 8. Feelings of hopelessness, pessimism | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 9. Feelings of guilt, worthlessness, helplessness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 10. Appetite and/or weight loss or overeating and weight gain | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 11. Thoughts of death, suicide or suicide attempts | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 12. Restlessness or irritability | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 13. Headache, nausea, chronic pain or fatigue | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 14. Negative impact on my job | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 15. Negative impact on my relationships | <input checked="" type="radio"/> YES | <input type="radio"/> NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: _____

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 3/20/09

Kari M. Rengo
Signed Name

Kari M. Rengo
Printed Name

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the local docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FILED

APR 3 2009

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY EKH DEPUTY

I. (a) PLAINTIFFS

KARI RENG0

(b) County of Residence of First Listed Plaintiff St. Louis (MN)
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Krohn & Moss, Ltd. Ryan Lee (323) 988-2400
10635 Santa Monica Blvd., Suite 170, Los Angeles, CA 90025

DEFENDANTS

PATENAUE & FELIX, A PROFESSIONAL CORPORATION

County of Residence of First Listed Defendant San Diego (CA)
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'09 CV 0683 LAB WMC

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
15 USC 1692 et seq.Brief description of cause:
Unlawful and abusive debt collection practices

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/27/2009

SIGNATURE OF ATTORNEY OF RECORD

Michael S. Agruss

FOR OFFICE USE ONLY

RECEIPT # 161717 AMOUNT \$350 - APPLYING IFP JUDGE MAG. JUDGE

THB 04/02/09

OK

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

161717 - MB

**April 06, 2009
08:43:32**

Civ Fil Non-Pris

USAO #: 09CV0683

Judge...: LARRY A BURNS

Amount.: \$350.00 CK

Check#: 15964

Total-> \$350.00

FROM: KARI RENG0 VS PATENAUE & FELI